

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 29 January 2004

CASE NO: 2004-LCA-7

IN THE MATTER OF:

**EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
U.S. DEPARTMENT OF LABOR**

Prosecuting Party/Complainant

v.

DATUM ENGINEERS, INC.

Respondent

**DECISION AND ORDER
APPROVING CONSENT FINDINGS**

This matter arises under the H-1B provisions of the Immigration and Nationality Act (hereinafter INA or the Act), 8 U.S.C. § 1101, et seq., and its implementing regulations at 29 C.F.R. Part 507, et seq., and, more specifically, 20 C.F.R. Part 655 relating to Labor Condition Applications for H-1B non-immigrants (herein LCA).

On or about November 11, 2003, Respondent filed a request for an administrative hearing, pursuant to 20 C.F.R. § 655.820, before the Office of Administrative Law Judges challenging the determination of the Administrator dated October 29, 2003, that Respondent required or accepted payment from an H-1B worker of the additional \$500/\$1,000 petition fee incurred in filing an H-1B petition in violation of 20 C.F.R. § 655.731(c)(10)(ii) and 8 U.S.C. § 1182(n)(2)(C)(vi) and the imposition of a civil money penalty of \$4,500.

On January 26, 2004, the parties submitted the attached Consent Findings to be approved pursuant to 29 C.F.R. § 18.9. I have carefully reviewed the terms of the Consent Findings and

find them to be fair and reasonable and in substantial compliance with the requirements of 29 C.F.R. § 18.9(b). The Administrator amended the Determination Letter reducing the civil money penalty from \$4,500.00 to \$2,250.00, which Respondent fully paid. Pursuant to the terms of the Consent Findings, the parties agree that such constitutes full and complete settlement of all issues in the above-captioned matter.

Accordingly,

IT IS HEREBY ORDERED that:

1. The Consent Findings be **APPROVED**, as a full, final and complete adjudication of this proceeding;
2. This Order shall have the same force and effect as an Order made after full hearing;
3. The entire record upon which this Order is based shall consist solely of the Administrator's Determination Letter and the Consent Findings executed by the parties;
4. Any further procedural steps before this office are waived; and
5. Any rights to challenge or contest the validity of this Order entered into in accordance with this agreement are hereby waived.

IT IS FURTHER ORDERED that this matter is hereby dismissed with prejudice.

ORDERED this 29th day of January, 2004, at Metairie, Louisiana.

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LEE J. ROMERO, JR.
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: Pursuant to 20 CFR § 655.845, any party dissatisfied with this Decision and Order may appeal it to the Administrative Review Board, United States Department of Labor, Room S-4309, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210, by filing a petition to review the Decision and Order. The petition for review must be received by the Administrative Review Board within 30 calendar days of the date of this Decision and Order. Copies of the petition shall be served on all parties and on the administrative law judge.